App. F. IX-4

Previous References 1940 (Jan. to Jun.)

File No. 1

Serial Nos.

PRESERVED

Later References.

MWP dep 479-40
480-40
5p 40
~~Def 106/41/41~~
Secret 97-41-1-2

GENERAL AND REVENUE SECRETARIAT.

Secret 53-41 (1-4)
MWP 97-41-3-9.

Serial Nos. 6.

Part B for March (1)

SUBJECT.

Unauthorised enjoyment of land belonging to the Estate of the Maharaja of Jeypore & Swamy, Bisoi.

Notified 10.3.41.
The Estate Commissioner

WD 0573—GPB—22,500—12-9-39

Returned to the Issuer

G.R.S. III—3]

ROUTINE NOTES.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

Petition dated 16 7 40 from the Public Prosecutor and other devotees of the Kankalla Anjaneya Temple, Mysore Road, Bangalore making certain allegations against D. M. Venkata Swami S/o Mallappa & others of the place.

1) The allegations are as follows

1) D M Venkata Swami & his followers have encroached upon the temple lands.

2) They are threatening to drive away the temple servants & utilise the amount for their own purpose

3) Some times they are obstructing the devotees from going to the temple & also using foul language

4) The atmosphere is such environment ill feeling & hatred there is every possibility of breaking peace in the locality

5) In the circumstances the petitioners request that Govt. may kindly take necessary action to maintain peace & order in the locality

N.B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

WD 05639—36,000—GPS—20-3-40

G.R.S. III—3]

ROUTINE NOTES.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

3 The allegations are serious, if true and in the interest of maintenance of peace & order - it is for order. Whether the M.C. may be requested to investigate the truth of the allegations & report to the Govt early

D 24/7/39 — I suggest a report may be called for.

2. This is an old case about which the papers should be available in early

Previous references are pencilled (Chron Sec Dep no 137 of 37 & 283 of 38)

D 30/7 3. Nothing is heard so far about the results of the civil suit between the Shambadaras of the temple & others who are claiming the temple lands for themselves & if appeal, the proceedings will be forwarded to the M.C. for report—

Sd 30/7

30/7

Secy

GENERAL SECRETARY. 31 JULY 1940 841

N.B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

WD 05639—36,000—GPB—2/

D. Clerk has a report on the P.W.D
31/7/40

Dear Sir

Memo No 296/Secy 1-40-2
dt 2-8-1940.
To the Secy. Govt.
Calling for report.

Letter

petition dated 31.7.40
from the Military Pensioners of the
1st, 2nd & 3rd Battalion of Mysore State
Troops. Who are the devotees of the
Sri Kari Kalla Anjaneya Swami
Temple Mysore Road, Bangalore City
stating that Nawab Sahib of Mysore
has sold the temple lands
to one D. M Venkata Swami & requests
that necessary action may kindly
be taken immediately

Similar petition on the
Officer was received
& sent to the M C. in this Office
Memo No 296/Secy dt 2-8-1940
for report. It appears this Office
also be forwarded to him in Continuation
forwarded to the Revenue Department

Yr ltr 5/8/40
5/8/40

Memo No 339/Secy 1-40-5
dt 10-8-1940.
Forwarded to the Manager
Communication for report.

RuSN 265

Pet. No. 890

Mis 1-40-21

OFFICE OF THE DEWAN OF MYSORE,

Dated, 13.9.1940

GENL. & REV. SECRETARIAT MYSORE 27 SEP. 1940 473

GENERAL 26 SEP. 1940

The accompanying petition addressed to the Dewan is forwarded, with compliments, to the Secretary to Government General Department, for favour of disposal.

By Order,

Private Secretary to the Dewan.

To the Mysore Office no. Mis 1-40-2
of 28.40. in the matter. The
records has been received
from the M.C. of Appas Mysore
with the also sent to him
Continuation of Mis Office No.
No 939/Mis 1-40-5 dt. 10.8.40
for report — dated with a memo
on the P.U.S —
27/9 ES

for Secy

To the Collector, dt 28.9.40
Do the Mysore Commissioner
for report.

N.B.—*Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.*

WD 05636—GPB—36,000—20-3-40

Memo from the P.W.D.

Dear Sir

31/

No 296/Mug/1-40.2

dt 2-8-1940.

Calling for report.

Later

petition dated 31.7.40

The Military Pensioners of the 8th, 2nd & 3rd Bn. of Mysore State troops. Who are the devotees of the Sri Karikalla Anjaneya Swami Temple, Mysore Road, Bangalore City. Stating that Nawab Sahib of Mysore as has sold the temple lands. — one D.M. Venkata Swami & requests that necessary action may kindly be taken immediately

Similar petition on the Officer was received & sent to the M.C. in this office No 296/Mug dt 2-8-1940. for report. A copy of this letter also be forwarded to him in continuation.

dt 5/8/40

Memo No 339/Mug/1-40.5

dt 10-8-1940.

Forwarded to the Manager

Commissioner for report.

Mys 1-40-21

OFFICE OF THE DEWAN OF MYSORE,

Pet. No. 890

Dated, 13.9.1940

GENL & REV. SECRETARIAT
27 SEP 1940
473
MYSORE

26 SEP. 1940

The accompanying petition addressed to the Dewan is ~~forwarded~~, with compliments, to the Secretary to Government General Department, for favour of disposal.

By Order,

Private Secretary to the Dewan

ROUTINE NOTES.

[To be used only for notes, requisitions, etc.; not intended for permanent record.]

Petition dated 16.7.40
from Mr Ramasinga Rao &
Others devotees of the Sri Kasikalle
Anjaneya Swami Temple, Mysore
Road, Bangalore City, complaining
against D/m Venkata Ramayya
Commander in a certain Local Inam Brahmin
& Others Residents of the place, about
their sale of temple lands to the
prejudice of the institution.
The M C has been

requested to submit a report
in the above case No 296/Mag 1-40-2
of 2 8 40. in the matter. The
Hon'ble the report has been received
from the M C. of appeal he/both
with also a sent to him
Confirmation of the above case.
No 339/Mag 1-40-5 & 10 8 40
for report — dated 10th a memo
on the D. C. of
2/9/40

For Secy

Memo No 650 Dt 28.9.40
To the Magistrate Concerned
for report.

N.B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

WD 05636—GPB—36,000—20-3-40

G.R.S. III—3]

ROUTINE NOTES.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

Petition dated [illegible]
on 11.9.40 from Sri [illegible]
Ramanathan and others praying
that Sri Kantal Anjaneyaswamy
Temple, Mysore, Board, be superseded;
Complaining against
D. M. Venkatachar and others
Amongst other things regarding
the illegal possession of the
Temple lands.

The M.C has not yet
submitted his report. Of course,
the case is fixed to the M.C for report
in Court when the office has got
the papers ready.

[illegible]
No objection 28.9.40.

Have to put before Govt. up.

GS
30/9 — Issue [illegible]
[illegible]
Do the [illegible]
Lr No 692 dt 3-10-40.

N.B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

WD 05636—GPB—36,000—20-3-40

encroachment on an Inam [illegible] Sri Kanchal Anjaneya Swami temple [illegible] Hospital Road by D.H. Venkatashwamy Compounder in a Hospital

Serial No.

Letter No. C 1043/36-37 dt 4.10.40 from the Mysore Commissioner furnishing a report in the matter.

It is reported that the Amildar Bangalore North TK got the temple land measured by the TK Surveyor, found that one Venkatashwamy, who is a Compounder in one of the Hospitals at Bangalore, has encroached to an extent of one acre [illegible] one gunta, built certain houses for himself & sold sites to others & that action is being taken to evict D.H. Venkateshwamy from the encroached area & restore the land to the temple — The Tahsildar is also stated to have filed a suit in the Munsif's Court Bangalore — A further report has been promised, & the receipt of the same being awaited, the matter is awaited for perusal —

9/10/40

9/10

10/10

Petition dt 10.9.40 from certain devotees of Sri Kanchal Anjaneya Swami temple Bangalore praying for the restoration of the temple inam land etc. is there in as memo on the file is put up

10/10

NOTE—Contn. Sheet.

GENERAL OFFICE 10 OCT 1940 2338

Kanikal Anjaneya Swami temple
Bangalore.

File No. of 1940-41 General and Revenue Secretariat

	Serial No.
To the Samyukai Commissioner No 856 dt 24-10-1940. Pch dt 14.10.40 from one Srinivasa Rao Bangalore praying that the land & refectory to them may be restored to the temple. Report has already been called for in the matter - The receipt of the same will be awaited & it is noted that this is one out of several petns received on the same subject [illegible]	
Letter No C 3295 dated 7.1.1941 from the Private Secy to H.H. Forwards a petition signed by Shanmukha and others of Sri Kanikal Anjaneyaswamy temple Bangalore city, and requests to have a note on the same. 24 Five petitions on the same subject were received, one after another, during the past 6 months and they were sent to the Muzrai Commissioner for a report which is still due. A draft forwarding the letter from the Private Secretary to H.H. the Maharaja, with its enclosures, may be sent to the Muzrai Comr for a detailed report is submitted for orders.	26

10.1.41 [illegible]

[illegible]
10/1/41

[illegible]
10/1/41

TYPING SECTION

GENERAL SECRETARIAT
11 JAN. 1941
263

Sri Karikal Anjaneyaswami temple Mysore Road Bangalore

General and Revenue Secretariat | File No. 1 of 1941. | [App. F. III-2

Serial No.	
27	D.O. No 1820 dated 11.1.1941. To The Mysore Commr Forwards the petition for a note within a week
28	Letter No C1043/36-37 dt 13.1.41 From The Mysore Commissioner Submits a report on the petitioners as called for. The above report is with reference to the petitions received prior to 11th Jan 1941 and the same is submitted for perusal. The note called for from the Mysore Commissioner in this office letter of the 11th Jan 1941, for submission to His Highness The Maharaja, as desired by the Private Secretary to H.H. is ascertained (by phone) to be under preparation in the Mysore Commissioner's office and its receipt will be awaited if asked. If it is not received by the 18th inst, the Mysore Commissioner will be reminded. Reference: Para 26 Rules. The M.C. does not definitely say (Change to P.A-A) whether the Composers D.M. Venkataramani files the suit in the Court Bangalore & the State in which the case is before that Court. The report called for is not yet received. A draft D.O. Reminder to the Mysore Commr is submitted for orders. Issued 1944 dated 20.1.41 The Mysore Comm

Yes 1/w 16/1

16/1

16/1

20/1/41 GS

NOTE—Contn. Sheet.

21/1

4518/Leo 1891

Karikal Brijakeyaishwara temple Benefices

Memo File No. of 1940. | General and Revenue Secretariat

Serial No.

Letter No C.1043/36.37 B 20.1.40
From the Manager Pour
furnishes a note as called for
vide explns connected references.
A draft reply furnishing a Note
is perhaps for orders.

34 Before a reply is sent
BT 24/1 to the private Secretary, the Law
Secretary may be consulted
whether the Banquet I.D. Act
under which Estimate may be
given effect to includes
the decision of the civil Court

Secy)

35 for favour of remarks

Law Dy
with Confls)

28/1

36 Hon
11/2/41

1/2/41

REV SECRETARIAT 1 FEB. 1941

5136.
2 Law
GOVT OF MYSORE

37 The present suit-file of Venkatasubbaiah is for the cancellation of the order of the S.D.O. passed in the Mis Case, whether S.D.O. or the Assistant Commissioner has jurisdiction in the matter. The order which is the subject matter of the present suit is sought to be executed by the

Laws 95 of 40-41
18th February 1941.

the Collector upon Cauvery

45/8 Lawsuits- Mysore R's. Bdry

General and Revenue Secretariat | File No. 45/8 of 1940-41 | [App. F. III-2

Serial No.

Legal Concessions on the following two grounds:—

1) that the order on merits falls under Sec 10 of the Mysore Religious & Charitable Institutions Act.

2) that no order in the Civil Suit is passed to stay the execution of the order passed in this case.

The note on the file shows that all along the Mysore Agents contended that the order passed by the S.D.O is bar under section 19 of the Act; and it is for this reason the appeal filed by Venkatswami against that order was dismissed, as the Act provided that orders passed under Sec 19 of the Act can only be set aside by the District Courts. The present D.C. is of opinion that the bar under Sec 10 of the Act. But it is held that the bar in dispute is not one where there is only a likely case & on such, prima facie, Sec 10 cannot be applied to the facts of the case.

38 Therefore hold that it is not expedient to accept the order of the S.D.O. when the matter is sub judice in the District Court. No doubt, no stay order is obtained — but it can be obtained at any time by the party & so the suggestion of the Mysore Commissioner not to take any action till the suit is decided is quite reasonable & ought to be carried out.

Revenue Secretary. 3 6/2/41

NOTE—Contn. Sheet.

Re. objections of Sri Kantheal Anjaneya Swamy Bramadeva Temple - Mysore 45/8 Road

MWB File No. of 1940. | General and Revenue Secretariat

Serial No.

39 As the party has not obtained an injunction or ~~stay~~ stay of the order passed by the S.D.O. on 7-11-35, the pendency of the suit need not deter the authorities from enforcing their order. The litigation may last for a number of years and I think there is no need to await the result of the suit.

GENERAL SECRETARY)
WITH COMPLIMENTS.)

Hm 13/2/41

3/2/41

The R.C. may perhaps be requested to instruct the D.C. to proceed to execute the orders passed in the Muzrai Department. & when the parties move the Board to R.B. with a view as desired by the Private Secretary to H.H.

Sd: V.S.

2nd Member)

13/2

14/2

14.2

14/2

42 A draft to the Muzrai Comm is put up

17/2

BTS 17/2/41

GS 17/2/41

GENERAL SECRETARY 14 FEB. 1941 11 0 A

OFFICE OF THE DEPUTY SECRETARY TO GOVT. 7948.

SYRIAN BISHOP 1 - MAR 1941 SECRETARIAT

1671 Affairs of Sri Karikal Anjaneyeshwara temple Mysore Road. Bangalore city

General and Revenue Secretariat — Ref File No. 1 of 194 0. [App. F. III-2

Serial No.	
32	2121 dated 17.2.41 The Hunsur Commissioner submits that the proceedings of the Court in the District Court Bangalore filed by D.M. Venkataswamy, would not debar the authorities from enforcing the order of the Sub-Division Officer, Bangalore passed on 7.11.1935 and that action may be taken to give effect to the same. Instructions to the Hunsur Commissioner issued. For orders if the draft to the Private Secretary to H.H. was issue. It is a matter for consideration before the Inam Commissioner as to the facts of the case whether the Survey records in regard to Sy.No.10 of Bhogenahalli village — Nice city proper — may not be called for.
(vide flag A)	
	45 Draft may be submitted 19/2
	46 For perusal before issue.
	47 D.F.A. 2nd Member) 19/2
	May be put up submitting the note 20.2.41

GENERAL SECRETARY. 19 FEB. 1941 1266

8105.

NOTE—Contn. Sheet.

Affairs of "A" Sub Karikal Arujaveerashwara temple Banjaranady

Mang File No. / of 194 ?. | General and Revenue Secretariat

Serial No.

DEWAN'S OFFICE
No 5658
No.....8.2.41.....

(48) A D.F.N is subd as directed.

BR 21/2 GS 2nd Mandang 24/2

21/2

S.N. is subd

BR 26/2 GS 26/2 Dewan 26.2.41

Submitted to His Highness.

I submit herewith a Final Note by the Second Member of Council on the subject of the alleged unauthorised enjoyment of land belonging to the temple of Sri Karikal Anjaneyaswami, Mysore Road, Bangalore City by one Venkataswami for His Highness' gracious perusal.

Mirza M. Ismail

D E W A N.

Bangalore,
26th February 1941.

Final Note by the Second Member of Council.

—•—

Subject:— The alleged unauthorised enjoyment of land belonging to the temple of Sri Karikal Anjaneya Swami, - Mysore Road, Bangalore City, by one Venkataswami.

—•—

As desired by the Private Secretary to His Highness, in his letter of the 7th January 1941, I beg to submit for His Highness' gracious perusal the papers on the above subject together with a brief note explaining the facts of the case. It will be seen therefrom that the matter is pending before the Civil Court in Bangalore on a suit filed by the said - Venkataswamy for a declaration that the land in dispute belongs to him. The Muzrai Commissioner has, however, been requested to give effect to the order passed by the Bangalore Sub Division Officer on the 7th November 1935 directing the eviction of the said Venkataswami from the land.

Tr Ananthakrishnan

SECOND MEMBER OF COUNCIL.

Bangalore,
22nd February 1941.
25th

N O T E.

Re. S.No.	A.	G.	Assmt.
30(dry)	2.	2.	2-8
17(dry)	1.	32.	2-8
	3	34	Rs.5/-

The temple of Sri Karikal Anjaneyaswami on the Mysore Road, Bangalore City, is a Village Muzrai Institution in receipt of an annual gograss allowance of Rs.3-12-0 and also in enjoyment of Inam lands (Noted in the margin) in Guttahalli, Kasaba Hobli, Bangalore Taluk. The temple itself is situated on a portion of S.No.1 of Bhogenahalli Village within the Municipal limits of Bangalore City and the present controversy refers to the land surrounding the temple.

Several petitions having been received in the past, complaining that one D.M. Venkataswamy, a Compounder in one of the local Government Hospitals of the City, had encroached upon a portion of the Kharab land alleged to form the Temple premises and surroundings and that he was not only building houses for himself but was also selling sites to others for the construction of houses thereon.

An enquiry was set on foot by the then Sub-Division Officer, Bangalore Division, and local Muzrai Officer, who decided in his order in Muzrai Mis. Case No.1/34-35, dated the 7th November 1935, that the Kharab in S.No.1 of Bhogenahalli, forming the premises of the Temple, measured 27 guntas and not 3 guntas as alleged by the said Venkataswamy, that Venkataswamy was encroaching on this Kharab and was building houses thereon unauthorisedly and that as such his action was high-handed. This Officer also ordered that the houses built on the land surrounding the Temple and measuring 27 guntas in extent, may be resumed and restored to the Temple for its benefit.

D.M. Venkataswami appealed against this order to the Deputy Commissioner, Bangalore District, who rejected it on the ground that the order was passed under Section 19(1) of the Mysore Religious and Charitable Institutions Act VII of 1927, and was consequently not appealable. Venkataswamy having threatened with a Notice of Suit, the Deputy Commissioner, Bangalore District, reported to the Muzrai Commissioner that the Sub-Division Officer's order having been communicated on 28th November 1935, the Notice was belated.

In his subsequent report of the 14th May 1937, the Deputy Commissioner stated that the portion of 27 guntas in dispute is not an Inam endowed to the Temple, that apart from the oral evidence recorded in favour of the Temple by the Sub-Division Officer, the records of the Survey Office, would appear to be the only other evidence in its favour and that he had requested the Survey Officer to send the original and re-survey pucca books and Tippani copies.

In his letter of the 14th July 1937, the Superintendent of Land Records, Survey and Settlement, reported to the Muzrai Commissioner that the Kharab belonging to the Temple as shown in the original pucca book, was 3 guntas which in extent according to the figuration in the original Tippani book had been included in 26½ guntas allowed for Khadakal (stony portion), that the entries in the original pucca book relating to the Survey Number in question, had been corrected and altered, that the measurement and classification field books were not treated as complete Survey Records, that they were merely intermediate papers of no conclusive value and that the accuracy of statements recorded therein, could not

be guaranteed.

The Deputy Commissioner, Bangalore District, in his letter dated the 9th August 1937 reported that, as per statement of the Assistant Superintendent, Survey, before the Sub-Division Officer, the extent occupied by the temple which is about 6 guntas exceeds 3 guntas mentioned in the Tippani book, that as the Tippani book had been tampered with and as there was no evidence to show that the Kharab allowed for the Temple was 27 guntas, as according to the original pucca book the Temple portion was only 3 guntas, there might not be much use in defending the suit and that the Sub-Division Officer might be directed to settle the matter out of Court and to see that the party agreed to leave untouched, the Temple and its appurtenances, and to take needful action for the unauthorised alienation of the phut Kharab. These facts having been reported by the Muzrai Commissioner in August 1937, to the Government, for orders, in consultation with the Law Department, a reply was sent to him on 26th August 1937 to arrange to have the case settled out of Court. In the meanwhile D.M. Venkataswamy filed a civil suit in O.S.No.29 of 1936-37 on the file of the District Judge, Bangalore, and this was dismissed on technical grounds, with permission to institute a fresh suit.

Two of the Dharmadarsis of the Temple filed a Civil Revision Petition No.9 of 1939-40 to the High Court of Mysore, Bangalore, against the Judgment of the District Judge, bangalore, in O.S.No.29/36-37, but this was dismissed with costs on 10th July 1940 (Vide copy of the Judgment in this file).

D.M. Venkataswamy has now filed a fresh suit

Record of Cases submitted for the Orders of His Highness the Maharaja.

Subject.

Unauthorised enjoyment of land belonging to the temple of Sri Karikal Anjaneyaswami, Bangalore City.

Order.

no 559.

VRW.
28/2/41

Chief Secy
MM
4/3/41

MKS
4.3.41

N.S. 183.

General and Revenue Secretariat.

SUBJECT:—

Unauthorised enjoyment of land belonging to the temple of Sri Rankat Anjaneyaswami Bangalore city

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(*)

31 All urgent or confidential files returned with His Highness' orders may in the absence of instructions or indications to the contrary, be ordinarily circulated to the Members of Council for perusal after the issue of orders.

33. The Secretaries concerned should see that orders in the cases referred to above are issued at once and that the files are returned immediately after to the Chief Secretary for circulation to the Members.

34. In all other cases, the files will first be circulated to the Members of Council at Headquarters and then sent to the Secretariat concerned for the issue of orders.

Circulated to Members of Council for perusal of His Highness, orders ~~before/after issue of orders.~~ (*Vide* Rules 31, 33 and 34 of the Subsidiary Rules for the conduct of business of Council in the Manual of Council Rules and Procedure.)

Chief Secretary to Government.

Through the Secretary to Government,

....Department.

8825
6.3.41

FIRST MEMBER OF COUNCIL.

7/3/41

8593
4.3.41

SECOND MEMBER OF COUNCIL.

5.3

Gen. Secy. with compliments.

7.3.41

NOTE.—Contn. sheet

WD 01183—GPB—500—16-10-40

Affairs of Sri Kaikal Aupanchadeswari Temple

General and Revenue Secretariat | File No. | of 194 | [App. F. III-2

Serial No.

5-9 A draft returning the enclosures, to the Mayavaram Comm is putup.

BS
8.3.41

Sgn 8/3

CF 8/3/41

2254 dated 10.3.41 The Mayavaram Comm returning the enclosures

TYPING SECTION 8 MAR. 1941 GEN. & REV. SECTT.

BS 12/3

NOTE—Contn. Sheet.

File No. of 194 .

General and Revenue Secretariat

Serial No.

Serial No.

~~The facts of the case~~

Note

The Temple of Sri Kasikal Anjaneya Swami on the Mysore Road, Bangalore city, is a village Muzrai Institution in receipt of an annual gogiass allowance of Rs 3-12-0 and also in enjoyment of Inam lands (noted in the margin) in Guttahalli, Kasaba Hobli, Bangalore Taluk. The Temple itself is situated on a portion of S. No 1 of Bhogenahalli village lying within the Municipal limits of Bangalore city and the present controversy refers to the land surrounding the Temple.

Re S. No. A. G. Assessment
3-0 (dry) 2-2 2-8
-17 (dry) 1-32 2-8
A3-34 Guntas Rs 5/-

(2) Several petitions were received in the past, complaining that one D. H. Venkataswamy, a Compounder in one of the local Govt Hospitals had encroached upon a portion of the Kharab land alleged to form the Temple premises and surroundings and that he was not only building houses for himself but was also selling sites to others for the construction of houses thereon.

(3) An enquiry was set on foot by the then Sub-Division officer, Bangalore Division and local Muzrai Officer who decided in his order in Muzrai Mis. case No 1/34-35 dated 4th November 1935, that the Kharab in S. No 1 of Bhogenahalli forming the premises of the Temple measured 27 guntas and not 3 guntas as alleged by the said Venkataswamy, that Venkataswamy was encroaching on this Kharab

TYPING SECTION 25 FEB. 1941 GEN. & REV. SECTT

NOTE—Contn. Sheet.

Serial No.

and was building houses thereon unauthorisedly and that as such, his action was high handed. This officer also ordered that the houses built on the land surrounding the Temple and measuring 27 guntas in extent, may be resumed and restored to the Temple for its benefit.

(3) D. M. Venkataswami appealed against this order to the Deputy Commissioner Bangalore District, who rejected it on the ground that the order was passed under Section 19(1) of the Mysore Religious and Charitable Institutions Act VII of 1927, and was consequently not appealable. Venkataswamy had having threatened with a Notice of Suit, the Deputy Commissioner, Bangalore reported to the Mysore Commissioner, that the Sub-Divisional Officer's order having been Communicated on 28th Nov 1935, the Notice was belated.

(4) In his subsequent report of the 16th May 1937, the Deputy Commissioner stated that the portion of 27 guntas in dispute is not an Inam endowed to the Temple, that apart from the oral evidence recorded in favour of the Temple by the Sub-Divisional Officer the records of the Survey Office, would appear to be the only other evidence in its favour and that he had requested

Serial No.

the Survey Officers to send the original and re-Survey puraca books and Tippani Copies.

J

In his letter of the 16th July 1937. the Superintendent of Land Records, Survey and Settlement, Reported to the Mysore Commissioner that the Khards belonging to the Temple as shown in the original puraca book, Was 3 guntas which extent according to the figuration in the original Tippani book had been included in 26½ guntas allowed for Khadakal (Stony portion) that the entries in the original puraca book relating to the Survey Number in question, had been Collected and altered, that these measurements and classification field books Were not treated as complete Survey Records that they were merely intermediate papers of no Conclusive Value and that the accuracy of Statements recorded therein, Could not be guaranteed.

E

The Deputy Commissioner Bangalore stated in his letter dated 9th August 1937 Reported that as per Statement in the Assistant Superintendent of Surveys, before the Survey Division Officer Commenced the extent occupied by the Temple exceeds ~~the extent~~ 3 guntas mentioned in the Tippani books, ~~that it was also recorded 6 guntas~~ that as the Tippani books had been tampered with, and as there was no evidence to show that the Khards allowed for the Temple was 27 guntas, ~~as per the book~~ Statement recording

NOTE—Contn Sheet

Serial No.

to the original pucca book, the Temple portion was only 3 guntas there might not be much use in defending the suit and that the Sub-Divisional officer might be directed to settle the matter out of Court and to see that the party agreed to leave untouched, the Temple and its appurtenances, and to take needful action for the unauthorised alienation of the Phulkhanda. These facts having been reported by the Muzrai Commissioner in August 1937, to the Government, for orders in connection with the Law Department, a reply was sent to him on 26th August 1937 to arrange to have the case settled out of Court. In the meanwhile D. H. Venkatashamy filed a civil Suit in O.S. No 29 of 1936-37 on the file of the District Judge, Bangalore and this was dismissed on technical grounds, with permission to institute a fresh suit.

Two of the Khalwadaris of the Temple filed a civil Revision petition No 9 of 1939-40 to the High Court of Mysore, Bangalore against the judgment of the District Judge, Bangalore in O.S. No 29/36-37 which was dismissed with costs on 10th July 1940 (Vide Copy of the judgment [illegible]).

D. H. Venkatashamy has now

Serial No.

filed a fresh suit (O.S. No 6 of 1960-61) in the Court of the District Judge, Bangalore and it is being defended on behalf of the Sub-Division Officer and the Dharmadarsi of the Temple, through the public prosecutor, Bangalore Division, as per Govt No P.1625-27/Law 30-60-3 dated 15th September 1960. The

T

(d) In his recent letter of the 24th December 1960, the Bangalore Deputy Commissioner has reported to the Munsif Commissioner that the order passed by the Sub-Division Officer, fell more under S.10 of the Act of 1927 than under S.19 of the Act, that orders passed under the former Section were appealable only to the higher Munsif officers, the Civil Courts having no jurisdiction to interfere, and solicited instructions if further action could be taken to resume possession of the land forming the surroundings of the Temple, particularly as there was no stay order from the District Court.

(e) As the land in dispute is not an Inam land but only a portion of Khaiab land which portion is shown as set apart for the Temple, the case does not fall under S.10 of the Act which is applicable to Inam lands only. The order of the (Sub-Division) Munsif Officer has passed presumably under S.19 of the Act. According to the Sub's Records which are reported to have been collected

NOTE—Contn. Sheet

Serial No.

and asked. The Temple portion of the Khasra land is only 3 guntas, as against 27 guntas stated to be the extent set apart for the Temple purposes, and the Civil Suit filed by D. M. Venkatashamy will settle the position. In view of these considerations the Muzrai Commissioner ~~has~~ requested the Deputy Commissioner Bangalore Rural to await the result of the Suit before taking further action in pursuance of the order of the Muzrai Sub-Deputy Officer Bangalore, referred to above, and he solicited further instructions of Government in consultation with the Law Department. In reply the Muzrai Commissioner has been informed in this office letter dated the 14th February 1941, that the party has not obtained an order staying the execution of the said order, that the proceedings of the Suit (O.S. No 4 of 1940-41 D. M. Venkatashamy vs. Muzrai Officer, Bangalore) on the file of the District Judge Bangalore need not detain the authorities from enforcing the order in question and that necessary action may be taken to give effect to the same.

18/2/41

18/2/41

Mr. Law has requested to take action to file appeal in H.C. in O.S. No 4 of 1940-41 on the file of the District Judge Bangalore.

WD 2090—GBPM—800 forms—24-5-39.

M.C.V.N
30/9 No. 1562/2

THE PALACE, MYSORE,
24-9-1940
Date

498

The petition, of which particulars are given below, to His Highness the Maharaja, is forwarded with compliments for favour of disposal.

498

To

The Secretary to the Government
of H. H. the Maharaja of Mysore.
General Department,
Bangalore.

GENERAL SECRETARY.
30 SEP. 1940

By Order,

for Private Secretary
to H. H. the Maharaja of Mysore.

No. P. 130 of 1940-41.

27.9.40 Pr. 27-9-40.

Petition from G. S. Ramanathan and two others saying that the property belonging to the Sri Kanchi Anjaneyaswami Temple was illegally acquired by one D. H. Venkatasawami, a Compounder. They say this fact has been brought to the notice of the Deputy Commissioner, Nagar Commissioner and other but no action has been taken.

M. C. 13]

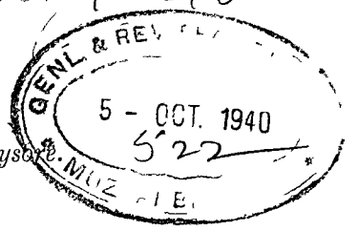
OFFICE OF THE MUZRAI COMMISSIONER
IN MYSORE,

No. C. 1043/36-37

ENCL. 1

Bangalore, 4th October *1940.*

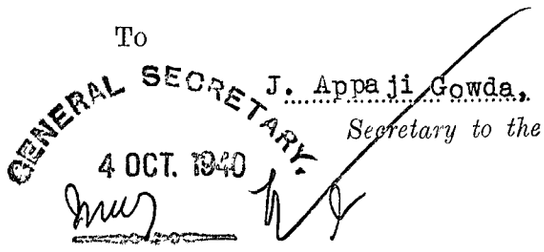
Dated 1-40-



FROM

RUKN-UL-MULK
S. ABDUL WAJID, B.A.,
Muzrai Commissioner in Mysore.

TO



J. Appaji Gowda, Esq., B.A.(Hon.),
Secretary to the Government of His Highness
the Maharaja of Mysore,
General *Department.*

SIR,

Report on the Petitions of Military Pensioners and other devotees of Sri Karikallu Anjaneya-swami Temple, Mysore Road, Bangalore City.

With reference to your memos Nos.296/Muz.1-40-2 dated 2-8-1940, 339/Muz.1-40-5 dated 10-8-1940, and 560/Muz. dated 28-9-1940, calling for a report on the above petitions, I have the honor to forward herewith, for information, a copy of letter No.C3-5176/38-39 dated 19-9-1940, received from the Deputy Commissioner, Bangalore District, submitting a report on a similar petition received in this Office from Masthan Sheriff and others, making certain allegations against Mr. Venkatasami; and to state that the fresh suit filed by Mr. Venkatasami is being defended through the Public Prosecutor, Bangalore District, as per sanction conveyed in G.O.No.P.1625-27/Law 30-40-3 dated 18-9-1940. It is seen from the Deputy Commissioner's letter that further action is being taken by the local officers, to evict the takrardar, Venkatasami, as no stay order has been passed by the Civil Court.

2. The Deputy Commissioner has been, however, requested to submit his report on the petitions addressed to Government, and, on receipt of the same, a further communication will be sent.

I have the honor to be,
Sir,
Your most obedient servant,

Muzrai Commissioner.

Letter No.C3-5176/38-39 dated 19-9-40 from the Deputy Commissioner, Bangalore District, to the Muzrai Commissioner in Mysore.

Re. the release of the encroachment by D. M. Venkatasami on the Inam land belonging to Sri Karikal Anjaneyaswami temple at Mysore Road.

With reference to the correspondence ending with your letter No.C.1043/36-37 dated 9th September 1940 forwarding for enquiry and disposal petition dated 28-7-1940 from Mastan Sheriff and others making certain allegations against Mr. Venkatasami on the above subject, I have the honor to state that the Amildar, Bangalore North Taluk who got the land in question measured by a Taluk Classer, found that the takarardar Venkatasami has encroached upon an extent of A 1 G 31 and built houses for himself and solds sites to others and that he is taking action to evict the takarardar from the encroached area and restore the same to the temple as ordered by the local Muzrai Officer, viz., the Sub Division Officer, Bangalore Sub Division in 1934-35.

2. As regards the question of filing a fresh suit by the takarardar Venkatasami, I beg to invite your kind reference to this office letter of even number dated 31-8-1940 in which it has already been reported that he has since filed the threatened suit in the District Judge's Court, Bangalore, and that arrangements have been made for its defence. But, as the Court has not issued any injunction order, further action is being pushed through by the local officers to eject the party from the encroached areas as per orders of the Muzrai Officer referred to above. As the case is proceeding in the Civil Court and the Public Prosecutor wanted the connected records, I have returned the file to the Sub Division Officer, Bangalore Sub Division, to forward the same to the Public Prosecutor and the Sub Division Officer has also been requested to furnish the Public Prosecutor with all the necessary particulars for the defence of the case.

"Copy"

M. N. Ananthu

WD 5028—GBPM—800 forms—5-7-40.

THE PALACE, MYSORE,

No. 193 1987/40-41

14-10-1940

1-40-

GENL & REV. SECRETARIAT
22 OCT. 1940
Genl BRANCH

The petition, of which particulars are given below, to His Highness the Maharaja, is forwarded with compliments for favour of disposal.

To

The Secretary to the Government
of H. H. the Maharaja of Mysore.
General Department. Bangalore.

GENERAL SECRETARIAT
18 OCT. 19

By Order,

for Private Secretary
to H. H. the Maharaja of Mysore

No. 193 of 40-41

Petition from the ~~devotees~~ Bakādis of Karekal Anjaneyaswamy Temple Mysore Road, Bangalore city, praying that the Inamī lands of the temple which are in illegal possession of one Venkatāsami may kindly be restored to the temple authorities.

WD 5028—GBPM—800 forms—5-7-40.

No. 2479.

THE PALACE, MYSORE,
8 10. 1940.

GENERAL SECRETARY.
12 NOV. 1940

The petition, of which particulars are given below, to His Highness the Maharaja, is forwarded with compliments for favour of disposal. 1-40.

GENL & REV. SECRETARIAT
12. NOV. 1940
736
586

To

The Secretary to the Government
of H. H. the Maharaja of Mysore.
General Department,
Bangalore.

By Order.

for Private Secretary
to H. H. the Maharaja of Mysore

No. P.277 of 1940-41.

The petitioner Mr Sreeniwasa Rao says that the lands belonging to the Karekal Anjaneyaswami is illegally owned by one Mr. Venkataswami and prays that the same may be restored to the temple.

P.277.

To

Sri JayaChamaraja Wadiyar Bahadur,
His Highness The Maharaja of Mysore,
Palace, Mysore City.

May It Please Your Highness

concerned B 21.10.40

We, the undersigned Bhaktadis of Karekal Sri Anjaneya Swami , Mysore Road, Bangalore City, beg to state the following for your Highness' benign consideration.

That the Karekal Anjaneyaswami temple was founded by Fouzdar LingaRaj Urs in 1813 under orders of Sri Mummadi KrishnaRajendra Wadiyar Bahadur III and that a." Tahaname" towards this temple has been granted sanctioning 6 Varahas or land in Srimukha Samvatsara Palguna Shudda 5th.

That the temple has been developed by the subscriptions raised in the construction of compound, Gopura, Prakara and Mantap by expending large sums to the extent of 3000-0-0 and plants have been also grown for the daily worship of the deity.

The major portion of the said Inami is illegally enjoyed by one Venkataswami a Compounder of the L.F. Dispensary, Doddamavalli, Bangalore City by unlawful transfers.

Now that it has become a Muzrai Inami and the temple is paid 3-12-0 for go-grasa.

Upon an appeal in Muz. Apl No.1 of 34-35 on the file of the Muzrai Officer, Bangalore, Mr.K. Basavaraj Urs, the then S.D.C. pronounced in open Court that the temple lands illegally owned should be restored to the temple

Now the question has been taken up by the Deputy Commissioner, Bangalore in connection with an appeal preferred by this VenkataSwami against the Sub Division Officer and 7 other Dharmadarais on the file of the District Judge, Bangalore.

It is therefore prayed that as this Royal grant has been made by Mummadi Sri Krishna Rajendra Wadiyar Bahadur, we hope your Highness will kindly interfere in this case and kindly make arrangements for the restoration of the Inamti to the temple, and thus objects of the Royal family be fulfilled.

We beg to remain,
May It Please Your Highness
Your Highness' most obedient and loyal subjects

Bangalore,
14-10-1940.

Sreenivasa Rao

Inwd/1-40-26.

No. C.3 295
Encls.

Vasantha Mahal,

Mysore, 7th January 1941.

GENL & REV. SECRETARIAT
9 JAN. 1941
1030
MUZRAI BRANCH

FROM

SIR CHARLES TODHUNTER, K.C.S.I.,

Private Secretary to His Highness
the Maharaja of Mysore.

Mysore.

GENERAL SECRETARY.
9 JAN. 1941

To

The Secretary to the Government
of His Highness the Maharaja of Mysore,
General Department, Bangalore.

Sir,

I am desired to forward herewith, for favour of disposal, a petition signed by the Dharmadarsis and a number of devotees of the Karikal Anjaneyaswami Temple, Bangalore City, regarding the unauthorised enjoyment of the Inam lands of the temple by one Venkataswami, and to say that His Highness will be glad to have a note of the facts of the case.

I have the honour to be,

Sir,

Your most obedient servant,

Todhunter

Private Secretary
to H.H.the Maharaja of Mysore.

RKS

To

Sri Jaya Chamaraja Wadiyar Bahadur

His Highness The Maharaja of Mysore

Mysore City.

May It Please Your Gracious Highness,

We, the Dharmadarsis and Devotees of Sri Parikal Anjaneyaswami Temple, Mysore Road, Bangalore City, beg to submit the following facts for your Highness's gracious consideration and immediate relief.

We have been urging the authorities to set right several matters connected with this Muzrai Institution and no heed is paid for reasons unknown to us. We have therefore approached Your Highness for favour of kind inspection of the temple and the Inam land endowed to it round about the temple which is in unauthorised enjoyment of one Venkataswami and others. This is an Institution whose income could be estimated at Rs 1,000-0-0 or more if all the lands and buildings belonging to it are properly managed.

We enclose herewith, a copy of the order in Muz. Mis. Case No. 1/34-35 dated 7th November, 1935 of the Bangalore Sub Division Office and a copy of the Deputy Commissioner's order in Apl. No. 9 of 35-36 in regarding the eviction from the land belonging to the temple. Though it is over five years since these orders were passed the local Revenue authorities have not taken steps to evict the said Venkataswami and others and restore the lands to the temple. It is a point for decision as to who is responsible for the loss to the Institution from not

restoring those lands. As per orders of the Deputy Commissioner, the party had only recourse, in a Civil Court, as the order of the Sub - Division Officer was under Section 19(i) of Act 7 of 1927. The Party having failed a Civil suit withdrew it in the last stage apprehending weakness of the case in his favour. When things stand like this, it is really a surprise why the Revenue Authorities should hesitate to evict the person in unauthorised enjoyment of the temple lands. It may kindly be impressed on the Local Officers to that any delay and consequent loss the Instituti from such restoration would involve on their pers responsibility.

We also beg to submit that no action has been to give effect to the order of the Sub Division Officer and the Deputy Commissioner in determining exactly as to how much of the grant of six varahas still remains in Guttahalli or Bhog-nahalli or both deducting half of it given to Kabarasthan.

In this connection, we cannot omit to mention the high handed action of the said Venkataswamy who is advertising that all Officers are in his pocket and that any amount of our agitation would not have any effect. This seems to be a fact as we are experiencing that all our efforts and repeated representations have gone in vain. It is for this reason we have now come in deputation before Your Highness who is the Incornation of Justice for immediate relief in the interest of the temple.

We pray that Your Highness may kindly make it convenient to inspect the temple and the unauthorised encroachments etc, in company with the Survey and Inam Superintendent and all the original survey records and decide this long pending question and save the Institution from the loss.

There are several other matters of importance which we will put before your Highness for the investigation of the resources of this Institution and for its efficient administration. We also request your Highness to kindly get the affairs of the Institution thoroughly investigated by deputing the Muzrai Commissioner .

We beg to remain,
May It please Your Highness
Your Highness' most obedient and humble
subjects

Bangalore City,
Novr. 1940 .

B. K. Siddalingaiah

A. Nagamma Setty

B. R. Basa Jettappa

V. Rajappa Chetty

R. Seshaiah

Thomas Rao

S. Nagappa

H. Srinivasachar

G. Gopalappa

K. N. Lakshmaiah Setty

S. Subramanya Gupta

Gundiah

P. K. Nambiar

M. B. Subba Rao

C. N. Gana Rao

C. R. Krishnamurthy

K. Srinivasappa

G. L. Kuppaiah

V. Guravayya Naidu

B. Shivamurthy

K. Ranganatha Rao

S. A. Srinivasan

Gundu Rao

K. N. Neelakanta

B. S. Rajappa

T. R. Ballal

M. Venkatachalam

R. Narayana Reddy

S. Gangaiah

V. N. Nagendra

K. C. Reddy

S. V. Venkatappa

M. V. Varadarajulu

Jeevanahalli Muddiah

G. V. Revanna

D. P. Puttanna

H. Veerabhadrappa

Puttaswamy

B. R. Narayanaiah

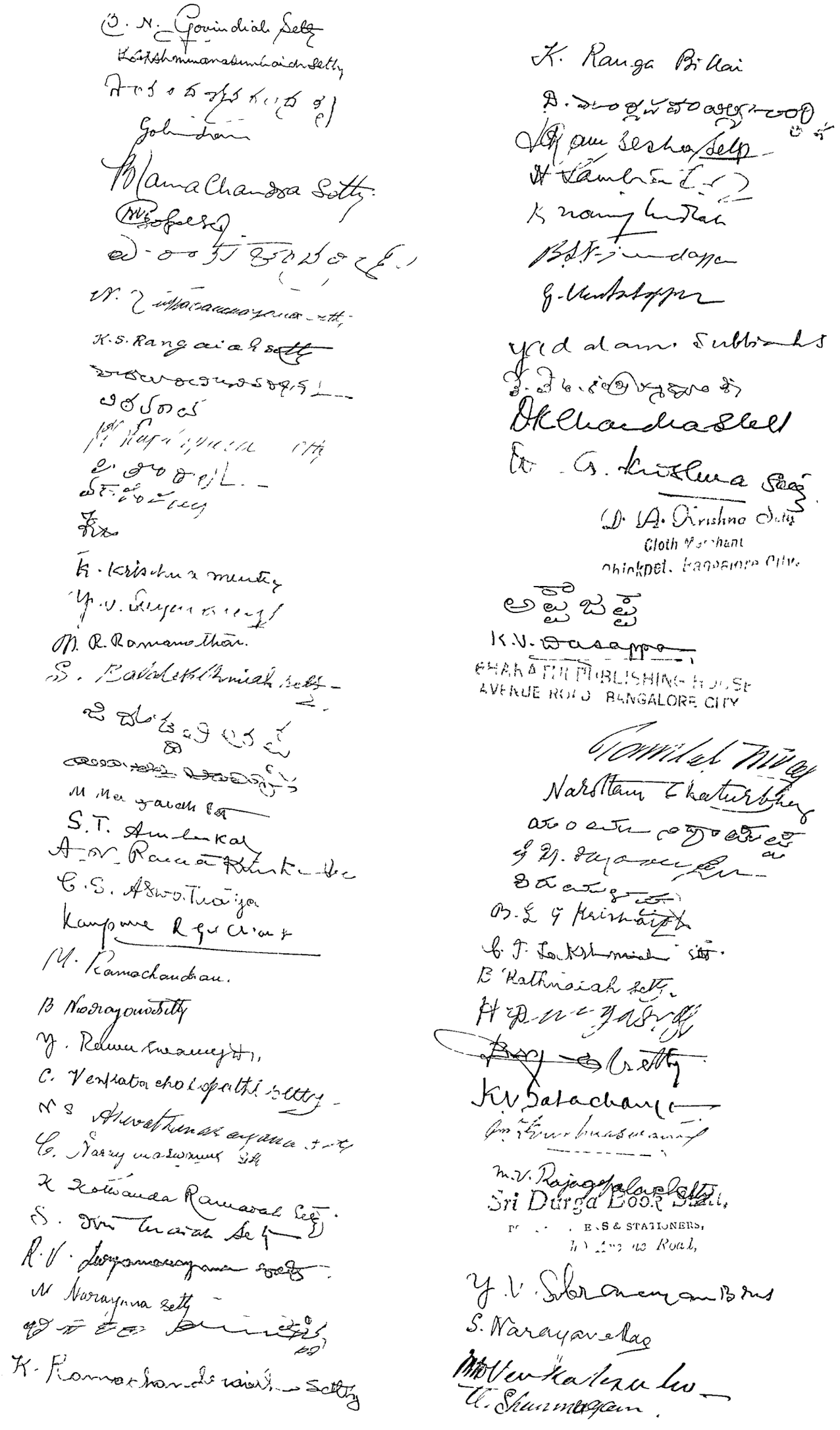
B. P. Padmarajaiah

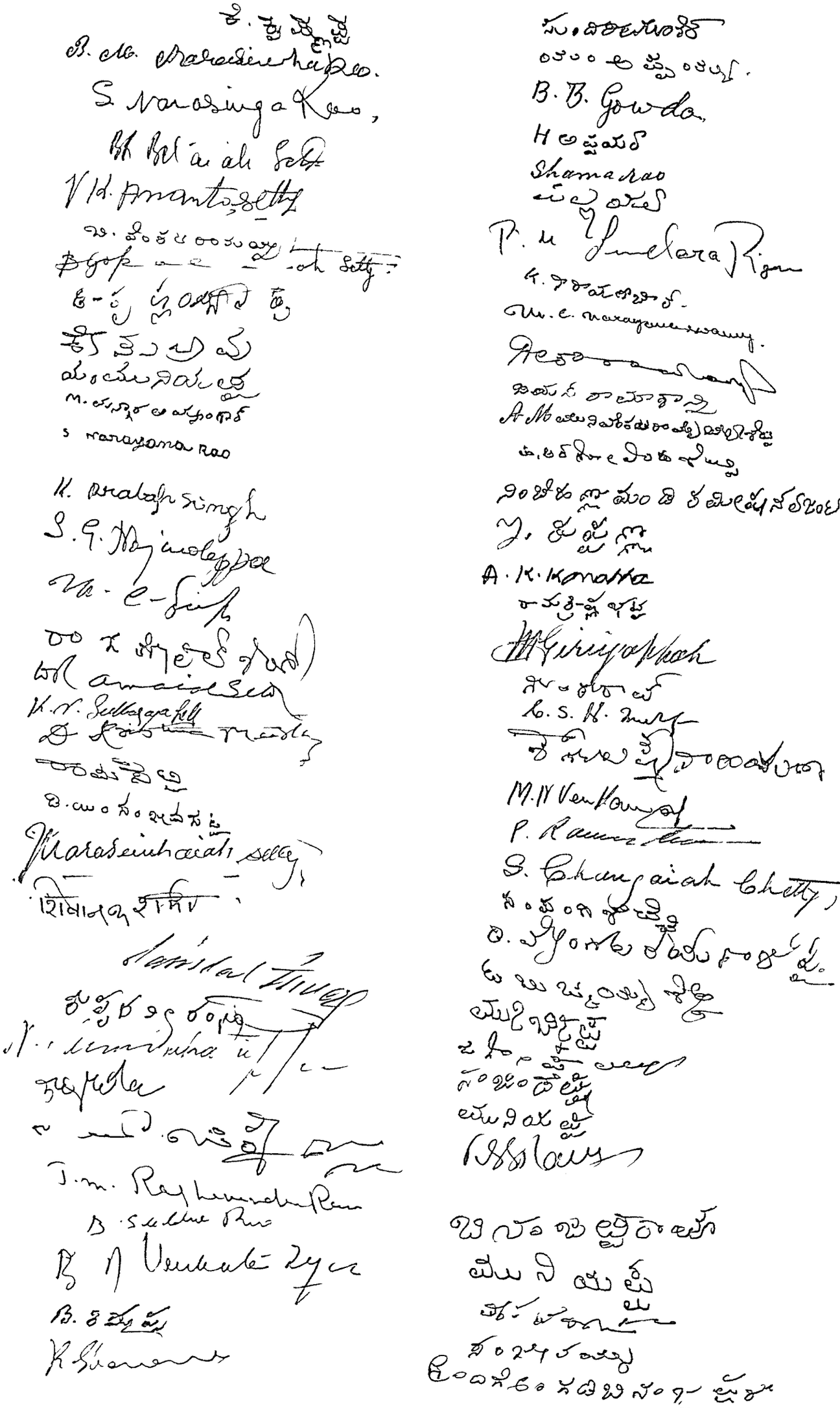
S. Ruchappa

B. R. Narayanaiah

P. Lakshmi Narayana Setty

B. S. Lakshminarayana





IN THE COURT OF THE MUZRAI OFFICER, BANGALORE SUB-DIVISION, BANGALORE.

Mis. Muz. Case No.1/54-55

Dated 7th day of November 1955.

Present:-

K. Basavaraj Urs, Esq., M.A., LL.B.,
Sub Division Officer and Muzrai Officer,
Bangalore Sub-Division,

Petitioners.		Opponents.
Dharmadarsees of Sri Anjaneya Temple of Karikal, Bangalore.	Vs.	Venkataswamy.

ORDER.

A series of petitions were presented to the Amildar, Sub-Division Officer, the Deputy Commissioner and the Muzrai Commissioner from 1952 December or thereabout by some of the Dharmadarsees of the Muzrai Temple of Karikal Anjaneyaswamy in Mysore Road near Police Lines, Bangalore, alleging against one Venkataswamy, Compounder in a Local Fund Dispensary that he was encroaching on this temple land and trying to build houses thereon. This temple is in receipt of a cash grant of Rs.3-12-0 a year. Amildar, Bangalore, was asked to make a report after enquiry. His final report dated 25-12-1954 received in Sub-Division Office on 26-12-54 enclosed in the file may be referred to. Amildar did not make a thorough enquiry, as will be seen from the trend of my review of the facts of the case and the evidence recorded by me. Beyond certain sketches and the statements of Venkataswamy, Amildar did not take pains and had not the patience to make a detailed enquiry in such a difficult case like this.

2. So, I felt that the report was incomplete and consequently I inspected the spot on 17-1-1965 and posted the case for enquiry on my own file. Statements of the parties were filed on 22-1-1965 and 25-1-1965 of the Dharmadarsees of the temple and of Venkatasw my r-s- pectively. Evidence was recorded of the witnesses on both sides and a court witness was also exa ined, na ely the Assistant Superintendent of Revenue Survey. Arguments were heard on 22-10-65 and 29-10-65.

3. On behalf of the temple 4 witnesses were examined and exhibits from A to J were filed. For Venkataswamy, 3 were examined including Venkataswamy and 15 exhibits were filed. One court witness was exa ined and one court Ex.1 was taken. The case for the temple may be ana ysed into two aspects. One regarding the Inam land granted according to Ex.A Sannas of 6 Varahas in Guttahalli and Bhogenahalli and the Kharab in S. No.1 of Bhogenahalli for Temple premises. Regarding Inam land as per B of 1864, an endorsement from Bangalore Taluk Office will show, half of it was taken away for Kabarastan and an exchange land seems to have been given in Byatarayanapura of an equal extent which was some time ago acquired for the Mysore Tanneries near the Mysore Okkad and compensation of Rs.3,000/- and odd is given for the benefit of the te. le. Regarding the remaining half of 6 varahas of B.A. dated 1864, due to the including of these vi ages in the Municipality and the extension of the City, it has become difficult to find out whether any more Inam land has remained still for the temple. From the adjustment register it was found that there was still so e Inam land remaining for the temple. From spot inspection along with the Assistant Superintendent of Revenue Survey, it was found that

that Kabarastan as situated now consists of about 6 acres and odd of Guttahalli, and Bhogenahalli. There seems to be a gradual encroachment for a long time of the inam land. As burials of Mahommadans is stopped within the city limits here, further encroachment has stopped in S. No.2 of Bhogenahalli. There is no acquisition or alienation of this remaining portion. So, the exact extent will have to be determined and resumed.

4. Regarding the kharab for the temple, Venkataswamy began stating that only 6 guntas were given to the temple premises in S.No.1 of Bhogenahalli and produced Ex.XIII. After inspection by me for the second time of the spot along with the Assistant Superintendent of Revenue Survey and the parties, as a result of this, the Assistant Superintendent who was requested to produce the survey records, such as Tippani and Pucca book, he sent to the Court Exhibit I dated 5-6-55. From his reply, it was clear that in the original Pucca Book, 27 guntas of Kharab has been shown as given to this temple in S.No.I of Bhogenahalli. Then, he was examined in the case. From his evidence, it is clear that Venkataswamy's version that only 6 guntas were given is disproved. In original Tippani and Pucca Book, it is 27 guntas Ex.H. Tippani copy produced on behalf of the temple dated 22-1-36 supports this. One Gundu Rao, retired Supervisor, Survey Department was examined for Venkataswamy. He has prepared both Exhibits Ex.XIII and Ex.H. He was asked to explain which was the correct Tippani Ex.XIII marking Temple Kharab as 6 guntas or so or Ex.H. leaving the whole kharab without being marked particularly regarding temple karab. His reply is " [illegible]

re. XIII Tippani copy was issued by the same witness on 8-5-34. It is clear from this that the pucca book in Survey Office has been tampered with and 6 guntas marked as per

with and 6 guntas [illegible] Ex.H., 1½ years later. The extent of encroachment of Revenue Survey is also shown on that there is [illegible]. He further states that the total charib [illegible] 2 guntas of which 15 cubic feet [illegible] stones, 27 guntas for temple [illegible] charab for road, etc., He further states that the [illegible] book entries. If the stretch of 27 guntas [illegible] with other items such as road, etc. Mukhia House, etc., built with the total of 1 ac. 01 guntas. As to extent, Venkataswamy who is the vendee of Ex.P.1 of Bhogeshwarilla [illegible] Ex.AV, has been giving varied versions. In fact on observation he went even to the length of stating that the temple has only 1 gunta for [illegible] and not more. [illegible] witness, i.e., his vendor Madiraju Subbaraya [illegible] to Venkataswamy's versions (vide his observation). Madiraju Subbaraya states that the temple of Anjaneya has got some charib land on all sides of it as per boundaries given in Ex.AV and that he did not know how much exactly temple charib is. However, he admits that a compound extending over 6 guntas has been put up 7 - 8 years back for this temple, i.e., 6 - 8 years before selling to Venkataswamy and that he did not object to this compound being put up nor take any steps to get it removed. If it was only 1 gunta or 6 guntas as Venkataswamy states no the temple compound is allowed to have 6 guntas is another unexplainable thing. The Asst. Commissioner in his really letter and in his deposition further states that as per his sketch sent marked Ex.J, the [illegible] to the right up to the Mysore Road. Venkataswamy after [illegible] cross and when orders were about to be [illegible] tion yesterday that as per sketch [illegible] 1-11-65 enclosed along with the [illegible]

further, evidence may be taken. He is getting round every time and in his further sketch, he changes again in accordance with the evidence let in on his side, that no temple has got on two sides of it some more land than 1 gunta or 2 guntas as originally stated by him. He is undoubtedly an unreliable person.

5. Therefore, I come to the conclusion that what the kharab is S.No.1 of Bhogenahalli to 27 guntas as shown in the sketch J sent by the Assistant Superintendent and that 15 guntas more will have to be located. Venkatasamy derives nothing from Nadar Gab his vendor to any of the kharab in this number as he has proved nothing. He seems to be encroaching S.No.1 kharab and attempts to build houses and to encroach is high-handed. In fact, Nadar Gab has not produced title deeds for any of these versions of Venkataswamy except Ex.II for his original title. Accordingly, I order that the houses built in this survey No. surrounding the temple and within the limits of 27 guntas of Ex.J sketch be resumed to the benefit of the temple as some of them are even paying rent. Venkatasamy will not be permitted to do anything in this area. Besides, 15 guntas of tope and 14 guntas of rock may be located properly by the Taluk authorities in consultation with the Survey Department and the tope kept in tact by Government.

6. Regarding the Inam land for the temple, further reference will have to be made to the Land Superintendent as the Assistant Superintendent suggests in his letter and Nadar will take further action in the matter, find out exactly how much of the grant of 5 varahas still remains in Guttahalli or Bhogenahalli from the cash rent given to Nabarastnan.

Pronounced in open Court.

7th day of Nov 85

Appendix F G—1]

SUBJECT.....

.....

.....

Diary No. of letter replied to....1070.....

General and Revenue Secretariat

( )

the 19 Dec

Date of issue.....

Signed by .....

2 petitions addressed to the Hon'ble Ka Mariappa by the Dharmakartas of the ~~Tiruchendur~~ Subramaniaswamy temple ~~Tuticorin~~ Tinnevelly Dist: re: the alleged

List of enclosures.....

Copied by .....

Examined by .....

Immediate

Section Revg

File No. 1-Ho

Serial No. 27

No. 1890 Encl. 1 petition

To

The Revenue Commr

Lri

In continuation of this Office Memo No 856/Revg/1-40 dated 24.10.1940, I am directed to forward herewith ~~Letter No. C 3295 dated 7.1.1941 together with its enclosures~~, from the Private Secretary to H.H the Maharaja ~~requesting~~ addressed to the unauthorised enjoyment of the Swamy lands by Sri Karikal Subramaniaswamy temple Dars in Mysore Road Bangalore City by one Venkatasami

and to request him to be so good
as to submit a detailed note of the facts of the case together
with connected references, on
the same matter as soon

The matter has kindly
been treated as immediate as a reply has been called for
by the Prime
Minister during his visit to Chequers - the
reply be returned also
Thanks of course for reply.

11/1/41

For Foreign Office
DL
10/1

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat.

Dated Bangalore, 11 January 1941.

D. O. No. O. 1890/Muz 1-40-x>
and 1 petition

Dear Sir,

In continuation of this office memo No.892/Muz.1-40 dated 24th October 1940, I am desired to forward herewith a petition addressed to His Highness the Maharaja by the Dharmadarsis and other devotees of the Karikal Anjaneyaswami Temple re: the alleged unauthorised enjoyment of the Inam lands of Sri Karikal Anjaneyaswami Temple in Mysore Road, Bangalore City by one Venkatasami and to request you to be so good as to submit a detailed note of the facts of the case to ether with connected references on the same within a week.

The matter may kindly be treated as immediate as a note has been called for by the Private Secretary to His Highness. The petition may be returned along with the reply.

Yours sincerely,

Rukn-ul-Mulk

S. Abdul Majid, Esq., B.A.,
Muzrai Commissioner in Mysore,
Bangalore.

M. C. 13]

OFFICE OF THE MUZRAI COMMISSIONER
IN MYSORE,

No. C. 1043/36-37

ENCL. file

Bangalore, January 13, 1941.

Genl 1-40-26 (b)

FROM

RUKN-UL-MULK
S. ABDUL WAJID, B.A.,
Muzrai Commissioner in Mysore.

GENL & REV. SECRETARIAT
15 JAN. 1941
1049

To

J. Appaji Gowda, Esq., B.A.(Hon.),
Secretary to the Government of His Highness the Maharaja of Mysore,
General *Department.*

GENERAL & REVENUE BRANCH
15 JAN. 1941

SIR,

Report on the Petitions of the Military Pensioners and other Devotees of Sri Karikal Anjaneyaswami Temple, Mysore Road, Bangalore City.

In continuation of my letter No.C.1043/36-37 dated 4-10-1940, on the above subject, I have the honor to forward herewith a copy of letter No.C3-C.S.R.1/40-41 dated 24-12-1940, received from the Deputy Commissioner, Bangalore District, soliciting instructions as to whether further action may be taken to resume possession of the land encroached upon by Mr. D. M. Venkataswami, for reasons stated in his letter.

2. From the previous history of the case, it is seen that it has not been definitely settled whether the land encroached upon is an inam or not, and that the civil suit now filed by Mr. D. M. Venkata sami will settle the point. Even if the land is not an inam, there is provision for interference under Section 19 of the Religious and Charitable Institutions Act, as it has been held that Muzrai Institutions are also public Religious and Charitable Institutions, and cases of wrongful alienation, of their private endowments, can be dealt with under that section.

3. In view of the fact that Mr. D. M. Venkatasami has filed a suit already in the District Judge's Court, Bangalore, the Deputy Commissioner has been requested to await the result of the suit before taking further action in pursuance of the Order

dated 7-11-1935, of the Sub Division Officer, Bangalore, and Muzrai Officer.

4. The petitions addressed to Government are enclosed.

I have the honor to be,

Sir,

Your most obedient servant,

Muzrai Commissioner.

Appendix F G—1]

SUBJECT... .....

.....

.....

Section Mwg

File No. 1-40

Serial No.

Diary No. of letter replied to..... .....

No. D.O. No 1944

To

The Mudaliar Commissioner

General and Revenue Secretariat

( )

the *193* .

Dear Sir, With reference to your letter No C 1043/3603 dt 13/1/41 I am directed to invite reference to this office D.O. letter No 1890/Mwg 1-40-27 dt the 11th inst regarding the alleged unauthorised encroachment of the Government lands of the Kanikula Vinayagaswami temple in Alpha Road, Burgess Estate to request you to furnish a detailed note of the facts of the case for submission with the Report called for therein.

Yours sincerely

Sd

20/1/41

Date of issue 20/1/41

Signed by Mr. S.K.V. Iyer.

List of enclosures... .....

Copied by. .....

Examined by... .....

WD 0563—GPB—30,000—6-1-39

M. C. 13]

OFFICE OF THE MUZRAI COMMISSIONER IN MYSORE,

No. C. [illegible] 37.

Bangalore, [illegible] 194 1.

ENCL. ~~three~~ 9

FROM

RUKN-UL-MULK
S. ABDUL WAJID, B.A.,
Muzrai Commissioner in Mysore.

21 JAN 1941
1091

To

J. APPAJI RAO, B.A., B.L., (Retd.),
Secretary to the Government of His Highness the Maharaja of Mysore,
[illegible] *Department.*

GENERAL SECRETARY.
21 JAN. 1941

SIR,

Petition submitted to H.H. The [illegible] by the Dharmadarsis of Devotees [illegible] Anjaneyaswamy Temple, [illegible] Road, Bangalore City.

* * * * *

With reference to your [illegible] dated 11th January 1941, forwarding [illegible] and in continuation of my letter [illegible] dated [illegible], I have the honour to [illegible] received with letter [illegible] the Deputy Commissioner, Bangalore [illegible] ten records have been sent to the Public Prosecutor, [illegible] trict, in connection with the [illegible] Permanently on the file of the District Judge, Bangalore.

2) A copy of the note prepared on the basis of the records of this Office is also sent herewith for kind perusal.

3) In the circumstances stated in this Office note, I solicit the favour of further instructions of Government in consultation with the Law Department.

4) Copies of references [illegible] petition received with your [illegible] letter are [illegible]

[illegible]

I have the honour to be,
Sir,
Your most obedient servant,
M. N. Ananthan.
Assistant Commissioner,
for Muzrai Commissioner.
(Absent on Headquarters).

BRV.

Office of the Muzrai Commissioner in Mysore,
Bangalore, Dated 20th January 1941.

N O T E.

The facts of the case have been explained fully in the note furnished by the Deputy Commissioner. It is stated that the land in dispute is a grant made by Government to the Temple and it is treated as Kharab out of an arable S.No. for the Temple purpose, that the land should be treated more as an Inam than a private gift or endowment, and that the provisions of Section 19 of the Religious and Charitable Institutions Act, should be made applicable rather than Section 18 of the Act as has been done in this case.

The view taken now by the Deputy Commissioner, seems to conflict with the reports previously made by him during the progress of this case.

'X' (1) The Sub-Division Officer, Bangalore, in his Order No.1 of 34-35 dated 7-11-1935 has held that the Kharab out of S.No.1 of Bhogendahalli set apart for the Temple is 0-27 guntas and directed that the houses built within the limits of 0-27 guntas, should be resumed to the benefit of the Temple as D.M.Venkatasamy would not be permitted to do anything in this area.

'C' (2) The Deputy Commissioner in his letter No.CB. 2221/36-37 dated 11-1-1937 reported that the appeal filed before him by D.M.Venkataswamy against the Sub-Division Officer's Order was rejected as the Sub-Division Officer's Order was passed under Section 19(1) of the Religious and Charitable Institutions Act, and that the threatened Civil Suit by D.M.Venkatasamy was belated as the Sub-Division Officer's Order was communicated to him on 28-11-1936 and the notice of suit to the Deputy Commissioner was received on 27-1-1937.

'D' (3) In his subsequent report, the Deputy Commissioner in his letter No. dated 14-5-1937 stated that the portion of 0-27 guntas in dispute is not an Inam granted to the Temple, that apart from the oral evidence received in favour of the temple

of the Temple by the Sub-Division Officer, the records of the Survey office would appear to be the only other evidence in favour of the temple, and that he had requested the Survey office to the original ~~survey~~ Inam Resurvey piece books and Pippani copies.

(4) The Superintendent of Inam Records, Survey and Settlements in his letter No.2 1 dated 1-7-1937 to this office reported that the Kharab belonging to the Temple as shown in the original Pacca book was 3 guntas which extent according to the Rates in the original Pippani book had been included in 20 guntas allowed for Inamakal (stony portion), that the entries in the original pacca book relating to the S.No. in question had been corrected and altered, that these measurement and classification field books were not treated as complete Survey Records, that they were merely intermediate papers of no conclusive value and that the accuracy of statements recorded therein could not be guaranteed. 'E'

(5) The Deputy Commissioner in his letter No.C3.2221/36-37 dated 3-8-1937 reported that as per statement of the Assistant Superintendent of Survey, before the Sub-Division Officer, the extent occupied by the Temple exceeds even the 3 guntas mentioned in the Pippani Books, that it was approximately 6 guntas, that as the Pippani Books had been tampered and as there was no evidence to show that the Kharab allowed for the Temple was 0-27 guntas as also of the Rates there according to the original pacca book the Temple portion was only 3 guntas, there might not be much use in defending the suit and that the Sub-Division Officer might be directed to settle the matter out of Court and to see that the party agreed to leave untouched the temple and its appertenances and to take needful action for the unauthorised alienation of the Inam Kharab. These facts were reported to Government in this Office Letter No.C.1043/36-37 dated 17-8-1937, soliciting orders in consultation with the Law Department. A reply was received in General Secretary's letter No.P.1170/Law.173-36-5 dated 25/26-8-1937 to arrange to have the case settled out of Court. 'F' 'G'

(6) But M.P. Venkatesam preferred the filing of a Civil Suit in O.S. 0.25 of 36-37 on the file of the District Judge Banga

with the result that it was dismissed on technical grounds, with liberty to institute a fresh suit.

(7) Two of the temple pharmakarsis filed a Civil Revision Petition No.9 of 39-40 of the file of the High Court of Mysore, Bangalore, against the judgment of the District Judge, in C.A. 29 of 36-37 and the petition was dismissed with costs on 10-7-1940, (vide copy of Judgment of High Court in C.R.P. 9 of 39-40).

(8) M.V.Venkatasami has filed a fresh suit in O.S.No. 41 of 40-41 on the file of the District Judge, Bangalore, as it is being defended on behalf of the Sub-Division Officer and the Dharmadarsis through the Public Prosecutor, Bangalore District, as per G.O. No.R.1620-27 Law.30-40-2 dated 1-8-1940.

(9) In his recent letter dated 2-12-1940, the Deputy Commissioner reported that the Order passed by the Sub-Division Officer fell more under Section 10 of the Religious and Charitable Institutions Act rather than under Section 14, these Orders passed under the former section were appealable to the Higher Inzrai Officer, the Civil Courts having no jurisdiction to interfere, and solicited instructions whether the case could be taken to Revision on the latter forming the surroundings of the Temple.

(10) As the land in dispute is not a Kharab land, but a portion of Inam land, portion of which is said to be set apart for the Temple, the case does not fall under Section 10 of the Religious and Charitable Institutions Act which is applicable with reference to Inam lands only. The Order of the Inzrai Officer was passed purely under Section 14 of the Act. According to the Survey Records [illegible] Survey Superintendent's letter [illegible] which are stated to [illegible] the Temple portion of the Inam is a Jungle, to an extent of 0-37 Cubits etc. [illegible] the Civil [illegible] the position. It will be [illegible]

to issue an

Commissioner was requested to await the result of the suit before taking further action in pursuance of the order of the Sub-Division Officer and Municipal Officer dated 7-11-1935 and a report was submitted to Government in this office letter No.C.1043/36-37. dated 13-1-1941.

- - - - -

M. N. Banerjee

for Mural Commissioner.

KRW/2.

Letter No.C3.2221/36-37 dated 11-2-1937 from the Deputy Commissioner, Bangalore District, to the Huzrai Commissioner in Mysore, Bangalore.

In forwarding herewith a notice received from Mr. S.K. Venkatagiri Iyengar, Advocate on behalf of his client one Mr. A.V. Venkatesa by giving notice that he intends filing a suit in the District Judge's Court for setting aside the order of the Sub-Division Officer, Bangalore (passed as Huzrai Officer) in His. Huz.Case No.1 of 34-35 dated 7-11-1935 directing the resumption from the said Venkatesa Naidu's possession, of 27 guntas of land in S.No.1 of Bhogenahalli Village, Bangalore Taluk on the ground that it belongs to the Sri Marikal Anjaneyaswamy temple, Mysore Road, Bangalore City, I have the honour to state as follows -

On receipt of several complaints from the devotees of the Marikal Anjaneyaswamy Temple, the Sub-Division Officer took the case on his file, held a regular enquiry and after recording evidence and hearing the concerned parties, passed orders on 7-11-35 directing the resumption of 27 guntas of land in S.No.1 of Bhogenahalli Village on the ground that it belonged to the temple. A copy of this order has been sent to you for information vide this office letter No.Co.3016/32-33 dated 28-11-1935. Against this order, the party appealed to this office on 28-11-1935, but the appeal was rejected on the ground that the order was not appealable either to this office or to the Huzrai Commissioner under section 38 of the Huzrai Regulation as the Sub-Division Officer's order in question was passed under Section 19(1) of the Regulation. The connected appeal file of this office is herein enclosed for perusal. The threatened suit is belated as the Sub-Division Officer's order had been communicated to the party by 28-11-1935 and notice of the suit has been received only now (27-1-1937).

I request that legal opinion may be obtained in the matter and instructions issued to defend the suit if filed.

Letter No.C3.2221/36-37 dated 14-5-1937 from the Deputy Commissioner, Bangalore District, to the Huzrai Commissioner in Mysore, Bangalore.

With reference to correspondence ending with your memo No.C.10463/36-37 dated 11-5-1937 enquiring whether the portion of 27 guntas ordered to be resumed from the possession of one A.V.Venkatesa Naidu and restored to the Marikal Anjaneyaswami temple in Mysore Road, Bangalore City, is an Inam land granted to the temple, I have the honour to forward herewith the entire records connected with the case and to state that in a letter No.104/36-36 dated 22-3-1936 from the Director of Land Records

to the sub-division officer, Bangalore (which is enclosed in the records) that the temple in question has not been enjoying any inam lands in Jayatarayanapura and Bhogenahally villages. The portion of 27 guntas now in dispute is therefore not an inam land enjoyed to the temple. The sub-division officer has stated that this portion for a part of 1 acre and 31 guntas one kharab land shown in S.No.1 and that it represents the extent reserved for the temple site and its surroundings. The Pucca book of the original survey may throw some light on this point. I have requested the Superintendent of Land Records to forward it to me for the original and resurvey pucca books and the Rapani of the Survey No. in question for perusal. Apart from the oral evidence recorded in favour of the temple by the sub-division officer, the records of the survey appear to be the only other evidence in favour of the temple.

The case is posted for hearing to the 17th instant. I have however, asked the Public Prosecutor to obtain an adjournment to a fairly distant date.

The records may be kindly returned after perusal for being passed on to the Public Prosecutor.

" Copies."

M. N. Krishna

for Inspector General of Registration.

Thr.

Letter No.241/ dated 1st-7-1937 from the Superintendent of Land Records, Survey and Settlements in Mysore, Bangalore, to the Huzrai Commissioner in Mysore, Bangalore.

With reference to your D.O. letter No.1043 dated 4th June 1937 and the subsequent reminders thereto, requiring for reference the original and Re-Survey Fair Books and Tippan Books pertaining to S.No.1 of Bhogenahalli Village, Bangalore Taluk, I have the honor to forward the same with the following remarks:-

A perusal of the records accompanying your letter shows that there has been some dispute as regards the extent of Kharab land allowed in the S.No. in question for a temple called after the name of "Karikal Anjaneya-swami."

The extent, etc. particulars of S.No.1 as recorded in the records of this office at the time of original and Re-Survey are as follows:-

Particulars.	As per Original Survey.	As per re-Survey.	Remarks.
	A. G.	A. G.	
Total Extent	8 - 26	5 - 11	By the time of resurvey, the Kharab land (1-31) together with 1-24 of culturable land having been included in the city limit the same were excluded while fixing the limits of the re-survey number.
Culturable.	6 - 35	5 - 11	
Wet unculturable or Kharab.	1 - 31	nil.	

	A.	G.
Details for Kharab. ...	1	-.31

(i) As per particulars furnished by the Surveyor, who measured the land and certified to by the Classer.

A.1 - G2

For Road, Temple, Houses, and Khadkal (stony portion)

0-6½ 0- 1 0-7 7/8 0-26½ A.G. = 1-1 5/8 or 1 - 2

(ii) As per remarks of Classer at the time of classification Kharab allowed on account of atray boulders and rocks - approximate area. A.0 - 14

(iii) As per remarks of the Settlement Officer at the time of Survey Jamabandi-Kharab allowed on account of a Tope (location not specified) approximate area. A.0 - 15

Total:- 1 - 31

The original and Re-survey Tippan Books show the figuration and measurements

measurements of land belonging to a certain temple. The extent of Kharab (according to this measurement) as shown in the Original Pacca Book is 3 guntas which extent according to the figuration in the Original Tippan Book is included in 26 guntas allowed for Khadaman (stony portion) and hence seems to have been left out of calculation in the process of addition of figures in the Original Pacca Book lest there should be a double deduction for the same item of Kharab. It is rather unfortunate that there is no clear scriptory entry in the Original Pacca Book in token of this. But the calculations as they stand in the original Tippan and Pacca Books point to no other conclusion but this. There is no corresponding entry in the Re-survey Pacca Book as the entire extent of land treated as Kharab at the Original Settlement together with a portion of culturable land was excluded from the Re-survey number for the reason of their having been included in the City limits (i.e. used for non-agricultural purposes).

In this connection it is worthwhile mentioning that an examination of the field books of this and other villages brings to light corrections similar to those in the books now sent for reference, and that none of these bear attestation of any officer not even of the checking officer. The entries on page 14 of the original Pacca Book which relate to the S. No. in question have been corrected and altered. Similar corrections are observed on pages [illegible] and also in none of these have been attested by any officer. I understand [illegible] re-survey measurements and classification it was [illegible] is borne out by the entries in several field [illegible]. It is perhaps for this reason [illegible] classification field books etc. [illegible] copies [illegible] are merely [illegible] [illegible]

[illegible]

[illegible]

M. N. Dhamkar

Ken [illegible] Commissioner.

Letter No.C.2221/36-37 dated 3-8-1937 from the Deputy Commissioner, Bangalore District, to the Inam Commissioner in Mysore, Bangalore.

With reference to your letter C.C.1043/36-37 dated 27-7-37 forwarding the original and re-survey Tippani Books pertaining to S.No.1 of Bhogenahalli village, Bangalore Taluk, and calling for my opinion whether, in the light of the survey records, it is possible to defend successfully, the suit filed by C. Venkataswamy for the recovery of the 27 guntas in the S.No., which has been ordered by the Sub-Division Officer to be resumed for the Karikal Anjaneyaswami Temple on the Mysore Road, I have the honor to state, that the Sub-Division Officer's order in question has been passed on the presumption that the extent of Kharab allowed for the temple was 27 guntas during the original survey.

It is seen from the statement given on 20-9-36 by the Assistant Superintendent of Survey (Mr. A.C. Irvani Ponda before the Sub-Division Officer on 20-9-36, that the extent actually occupied by the Temple exceeds even the 3 guntas mentioned in the Survey Tippani Books, that it is approximately 6 guntas and that the Kharab allowed for the temple, during original survey, was 27 guntas. The original Re-survey Field books are tampered and there is some evidence to show that the Kharab allowed for the temple is 27 guntas. The letter C.341 dated 14-7-37 from the Superintendent of Land Records, Survey and Settlement in Mysore, to the Inam Commissioner in Mysore, it is however stated that the extent of Kharab allowed for the temple in the original pucca book is only 3 guntas and that the same is included in the 27 guntas of Kharab allowed for Kadakal (stony portion). As the survey records are somewhat, this interpretation may also be possible. In this view, the case becomes an encroachment and alienation of Phut Kharab land in this S.No. for Kadakal. As such, there may not be much use in defending this case. The Sub-Division Officer, Bangalore, may be directed to settle the matter out of court, to see that the party agrees to leave unto the temple and its appurtenances and to take needful action for the unauthorised alienation of the Phut Kharab land.

The records and the Tippani Books are here with returned.

Copy.

M. N. Ramachar

for Deputy Commissioner.

Kln

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Letter No.C.1043/36-37 dated 17-8-1937 from the Divisional Commissioner of Mysore, Bangalore, to the General Secretary to the Government of Mysore, Bangalore.

C.S.No.20/36-37 on the file of the District Judge, Bangalore
(D.T.Venkatasamy Vs. Sub-Division Officer,
Bangalore.

With reference to your letter No.6407 dated 11th May 1937 calling for information whether the portion of 27 guntas of land in S.No.1 of Enjenanahalli village, Bangalore Taluk, is an Inam enacted to the Jeshtha Anjaneyaswamy Temple at the place, etc., I have the honour to forward herewith a copy of Bangalore District Deputy Commissioner's letter No.C3. 2221/36-37 dated 14-5-1937 stating that the land in question is not an inam but forms part of the kharab of the Hiduvali S.No. From the original pucca and tippani books received from the Superintendent of Land Records and Surveys, with his letter No.241 dated 14.7.37 (Copy enclosed) it is seen that the S.No. in question is a Hiduvali land measuring 8-26 guntas out of which an extent of 1-31 guntas is described as unculturable, that out of the latter extent 1-2 guntas forms the kharab, for the temple (0-1) houses (0-7 7/8), Pathway (0-6½) and kaval(0-26½) and that the extent allowed for the temple is shown as 0 guntas. But the actual extent now occupied by the temple and its premises is stated to be 3 guntes. The sale deed of October 1932 on which the plaintiff claims his right over the land also specifically states that the land sold is exclusive of the portion forming the Temple, the house and the pathway leading thereto as shown in the Tippani ~~xxxx~~ Uttar. This according to survey records comes up to 17 guntas and odd as shown above. The Sub-Division Officer seems to have arrived at the decision that the extent of 27 guntes now in dispute belongs to the Temple on the presumption that it forms part of the kharab of 1-31 guntas and reserved for the temple and its surroundings.

2) The Deputy Commissioner whose further views were called for, in the matter in the light of the above circumstances, states in his letter dated 9-8-1937 (copy enclosed) that as only 3 guntas are allowed for the temple during the original survey and this is stated to have been included in the kharab of 27 guntas allowed for the kaval and as such reliance could not be placed on the survey records, as they are complicated, it may not be possible to successfully defend the suit and suggests that a compromise may be arrived at out-side the Court, in the part agreed to leave untouched the temple and its premises and make separate action may be taken in respect of the unauthorised encroachment and alienation of the phut kharab land.

3) I agree with the Deputy Commissioner and solicit further order of Government

[illegible] in consultation with the Law Department [illegible] the case has been posted to 16-8-1937 for issue of [illegible] evidence, - have requested the Deputy Commissioner to instruct the Public Prosecutor to appear in the Court on [illegible] Government to [illegible] and obtain a short adjournment [illegible] the Court of Wards of Government.

[illegible] the public records received from the Deputy Commissioner [illegible] and copies of the [illegible] for reference.

" copy."

M. N Ramachandra.

[illegible] Commissioner.

IN THE HIGH COURT OF MYSORE AT BANGALORE.

Wednesday, the 10th day of July 1940.

BEFORE

MR. JUSTICE T. SINGARAVELU MUDALIAR.

Civil Revision Petition No. 9 of 1939-40.

1. Shanmuga Mudaliar. } Defendants
2. Jangam Naik. } 2 & 4 .. PETITIONERS.

(By Messrs. A.Viswanatha Iyer and T.S. Ramaswami Iyer).

-VS-

1. D.M.Venkataswami. ... Plaintiff.
2. Assistant Commissioner of Bangalore Sub-Division, Bangalore. ... 1st Defendant. } OPPONENTS.
3. R.Heera Singh. ... 3rd Defendant.

(Mr. V.Krishna Murthy for Opponent 1, Mr. A.S.Ramachandra Rao for the Government Advocate for Opponent 2. Opponent 3 absent and unrepresented).

Civil Revision Petition against the order dated 25th March 1939 passed by the Additional District Judge, Bangalore, on I.A. No.8/O.S. No.29 of 36-37.

This petition coming on for hearing on 3rd July 1940, the Court made the following:-

ORDER.

This Petition arises out of an order passed by the Additional District Judge, Bangalore, in Original Suit No.29 of 1936-37 - permitting the Plaintiff under Order XXIII, Rule 1, Clause (2) (a) of the Code of Civil Procedure to withdraw from the suit with liberty to institute a fresh suit. The Plaintiff filed the suit on 25-3-1937 - against the Assistant Commissioner, Bangalore Sub-Division as the first Defendant and Defendats 2 to 4, under Order VII, Rule I of the Code of Civil Procedure read with Section 21 of Regulation VII of 1827 alleging that he had purchased the plaint schedule property consisting of 27 guntas of Land from one Madar Sab and obtained possession of the same, that there is a temple on that land, that no part of the land belonged to that temple, that Defendant 2 to 4 who were the Dharmadarsis of the temple haaving complained to the Muzrai ~~Commissioner~~ Department

Department that the Plaintiff encroached on the land belonging to the temple, the Assistant Commissioner, Bangalore Sub-Division passed an order under Section 19 of Regulation VII of 1927 holding that the land belonged to the temple, that on appeal to the Deputy Commissioner as Muzrai Officer, the order of the Sub Division Officer was confirmed, that the Sub-Division Officer was had no jurisdiction to pass such an order, that the order was also illegal; and therefore the Plaintiff prayed for a declaration that he is the owner of the land with the exception of the land on which the temple stands, that the order in the Muzrai case may be set aside and for an injunction restraining the Defendants from interfering with the Plaintiff's possession. The main contentions of the Defendants, so far as the present petition is concerned, were that the suit was barred under Regulation VII of 1927 as it was filed more than 6 months from the date of the order of the Muzrai Officer, that the suit was not maintainable for want of notice, as required by law, to Government, and that the Plaintiff was not in possession of the property. Thereupon the Plaintiff filed I.A. No.IV on 23-3-1938 alleging that it was unnecessary to apply the provisions of Religious Charitable and Endowments Act to this case and that since the Government claimed to be in possession of the suit property, the plaint is to be amended by inserting a prayer for possession also. The learned Judge in his order dated 2-4-1938 observed that since the Plaintiff alleged that hewas dispossessed of the property subsequent to the filing of the Suit there was no reason why the Plaintiff should have delayed in filing the application for the amendment of the plaint but allowed the application, and so an amended plaint was filed on 19-5-1938 in which the portions of the original plaint, viz., paras 4 and 5 which referred to the enquiries before the Muzrai Officers were omitted and the prayer portion for declaring the order of the Muzrai Officer as null and void and setting aside that order was given up and a fresh prayer for directing possession was inserted. The Defendants filed their writtenstatements to the amended plaint; issues were framed and evidence was gone into and the Plaintiff's case was closed. The case was being then adjourned from time to time for the examination

of the

of the Defendants' witnesses. On 23-3-1939 the Plaintiff filed an application, I.A. No.8, alleging that his suit must fail by reason of a formal defect in that no valid notice was issued to the 1st Defendant prior to suit as contemplated under Sec.80 of the Code of Civil Procedure and praying that he might be permitted to withdraw the suit with liberty to institute a fresh suit after complying with the formalities required by law. The first Defendant objected to this application stating that it was not a formal defect and that as such the suit should be dismissed. Defendants 2 to 4 urged that the defect pointe was ~~not raised~~ raised in the written statement, that nevertheless the Plaintiff has chosen to proceed to trial and has filed this application at a later stage after a long delay and when the trial was practically concluded and that therefore the Court should not grant the permission. The learned Judge after hearing arguments passed an order that though the Defendants urged in their objection statements that the defect was not a formal one, conceded during arguments that it was a formal defect and therefore granted the permission sought for by the Plaintiff. As against this order this Revision Petition is filed by Defendants 2 and 4 making the Plaintiff and Defendants 1 and 3 as Opponents 1, 2 and 3 respectively.

Mr. Viswanatha Iyer for the Petitioners urges that the defect was pointed out to the Plaintiff at the earliest opportunity and he did not then take advantage of it but now that he finds that his suit has got to fail he has filed the application to withdraw from the suit and this application filed at a late stage should not be granted. On the other hand Mr. V.Krishna Murthi for the first Opponent-Plaintiff urges that leave could be granted even at a late stage when it is found that the suit has to fail on account of a formal defect, that in the case reported in 33 Mys.C.C.R. 116 permission to withdraw the suit was given even in such a late stage as appeal and that therefore the mere fact that the application was made by the Plaintiff at a late stage is not a ground for rejecting the Plaintiff's prayer. Among the issues framed in the case the 2nd issue is one, which according to the learned Judge relates to the maintainability of the suit for want of notice to Government. The issue runs thus: "Is the suit not maintainable for the reasons stated in the written statement?" On a perusal of the written statements it is

statements it is found that several grounds are mentioned for the non-maintainability of the suit, for instance, the suit for injunction as against Government is not maintainable, that no suit is maintainable against the first Defendant in his official capacity, and there is also a ground urged that the suit was bad for no notice being issued to the first Defendant. Since it is stated by the Judge that this second issue was framed on this point goes to show that the plaintiff was not quite sure that his suit was going to fail on account of this formal defect. If really at the earliest stage of the suit, the defect was such a fatal one, the Court would have dismissed the suit at once and the fact that the Court did not do so goes to show that the Plaintiff discovered at a late stage that this was a defect which would defeat his suit. Authorities were quoted for the proposition that when evidence has been gone into and the Plaintiff when finds that his suit must fail on merits he should not not be permitted to withdraw from the suit. 1925 Cal.711 was a case in which the Plaintiff joined issueds on the objections filed by the Defendants and a decision was given on merits by the trial Court against him and in the lower appellate Court he sought permission to withdraw from the suit and his prayer was rejected. In second appeal before the High Court it was urged that under Order XXIII of the Code of Civil Procedure the Plaintiff was entitled to withdraw from the suit and the High Court observed that permission should not be given since in that case though the defect was pointed out to the Plaintiff he joined issues and took the risk of an adverse decision against him and permission sought for at a later stage should not be granted. This case now applicable to the present case inasmuch as though the Defendants did raise the objection with regard to want of notice there was an issue framed which was yet the subject-matter for decision before the Court and it cannot be said that there is an adverse decision against the Plaintiff.

Mr. Viswanatha Iyer furtner contended that though the suit should fail so far as the first Defendant was concerned it will not fail in so far as Defendants 2 to 4 are concerned. But in answer to this Mr, Krishna Murthi rightly urges that this objection is not tenable, because Defendants 2 to 4, from their pleadings, rely upon the order of the first defendant for their remaining in possession of the property and as such

the suit

the suit cannot be tried as against them independently of the first Defendant.

Mr. Viswanatha Iyer further contended that even though the formal defect may be cured by a notice being issued to Government there were other formidable objections to the success of the Plaintiff; as for example, the suit for injunction against Government is barred by limitation as it was filed more than 6 months from the date of the order of the first Defendant. This question has yet to be decided by the trial Court, and this Court cannot positively say whether the objections are really formidable or not, and on this ground alone permission cannot be refused to the Plaintiff. I do not want to interfere with the discretion exercised by the learned Judge.

It is pointed out by Mr. Viswanatha Iyer that the learned Judge's order with regard to costs does not clearly say that the Defendants are entitled to all the costs incurred by them up to the date of the order. As the order stands it is likely to be understood to mean that the Defendants are entitled only to Rs.25/-. There is some ambiguity in the order passed by the learned Judge. The Defendants in the circumstances of the case are entitled to all the costs they incurred from the date of the suit upto the date of the order under revision, with two sets of costs, one for the first Defendant and the other for the other Defendants. This Petition is dismissed with costs of the Plaintiff and the first Defendant. Two sets of costs. No costs for the 3rd Defendant. Advocate's fee Rs.10/-.

SD/- M. Singaravelu Pudaliar,

J U D G E.

Amount of costs of this Court (two sets) payable by the Petitioners (Defendants 2 and 4) to the Opponents 1 and 2 (Plaintiff and Defendant 1):-

To Opponent 1 (Plaintiff):-

Court fee on Power of Attorney.	Rs.2-0-0
Advocate's fee.	10-0-0
Total:-	Rs.12-0-0

Rupees Twelve only.

To Opponent 2 (Defendant 1):-

Court fee on Power of Attorney.		Rs.0-0-0
Advocate's fee. ...	...	10-0-0
	Total:-	Rs.10-0-0

Rupees Ten only.

SD/- D. L. Acharya,
Deputy Registrar.

" Copy."

M. N. Ramachar.

For Muzrai Commissioner.

Appendix F G—1]

SUBJECT.....

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Section Mung

File No. 1-40

Serial No. 32

Diary No. of letter replied to.....1091.....

No. 2121

To

General and Revenue Secretariat

( )

the 19 .

The Munsif's Court at Mysore

Sir.

Date of issue.....17-2-41.....

Subject: Unauthorised encroachment of lands belonging to the temple of Sri Kanikal Anjaneyaswami temple, Mysore Road, Bangalore

Signed by Mr S. K. Ayyangar

a Compromise in suit before Venkatachariar the local Munsif of the city.

With reference to Correspondence ending with your letter No C 1043/36-7 dated the 20th January 1941 on the above subject I am directed to state that the party (D. M. Venkatachariar) has not obtained an injunction against the order

List of enclosures.....

Copied by .....17/2/41.....

Examined by .....

Warrant for execution by the order passed by the Bangalore Sub Division officer (Mis. Misc case No 1/34-35) on the 7th November 1935 that the pendency of the suit (O.S. 6 of 1940-41) in the District Court Bangalore filed by Venkatasharma) need not defer the Collector's authority in proceeding the order in question and to see what is the effect of ~~obtaining~~ ~~the~~ ~~D.C. Bangalore~~ or may be instigated ~~to proceed to Land the~~ ~~the D.C. Bangalore~~ ~~as practicable~~. The litigation was last for a number of years and there is no need to await the result of the suit.

I have el

for Joint Secretary
17/2

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat.

IMMEDIATE.

Dated, Bangalore, 17th February 1941.

No. 2121 Muz 1-40-37

FROM

The Secretary to the Government of His Highness the Maharaja of Mysore.

General Department.

To

The Muzrai Commissioner in Mysore,
Bangalore.

Sir,

Subject:- Unauthorised enjoyment of lands belonging to the temple of Sri Karikal Anjaneyaswami, Mysore Road, Bangalore City, by one Venkataswami, a Compounder in one of the local Hospitals of the City.

With reference to correspondence ending with your letter No.C.1043/36-37 dated the 20th January 1941 on the above subjec I am directed to state that the party (D.M.Venkataswami) has not obtained an order staying the execution of the order passed by the Bangalore Sub Division Officer (Mis.Muz Case No.1/34-35) on the 7th November 1935 that the pendency of the suit (O.S.4 of 1940-41 in the District Court, Bangalore filed by Venkataswami) need not deter the authorities from enforcing the order in question and to request that in the circumstances the Deputy Commissioner, Bangalore, may be instructed to give effect to the orders of the Sub-Division Officer. The enclosures to your letter will be returned shortly.

I have the honour to be,
Sir,
Your most obedient servant,

TN-2)

For Secretary to Government,
General Department.

General and Revenue Secretariat.

No. 2254 Muz 1-40-33 Bangalore, dated 10-3-1941.

FROM General
The Secretary to the Government of His Highness the Maharaja of Mysore.

To

The Muzrai Commissioner in Mysore,

Bangalore.

Sir,

In continuation of this office letter No.2121 Muz.1-40-32 dated 13-2-1941, regarding the alleged unauthorised enjoyment of lands belonging to the Temple of Sri Karikal Anjaneyaswami, Mysore Road, Bangalore City by one Venkataswamy, I am directed to return herewith the enclosures received with the correspondence.

I have the honour to be,
Sir,
Your most obedient servant,

For General Secretary to Government.

K. .R.2.

Appendix F G—1]

SUBJECT.....

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Section Mis. 3

File No. 1-40

Serial No. 33

Diary No. of letter replied to.....

No. 2254/ Genl Revds

To

The Manager Comm Lds.

General and Revenue Secretariat

( )

the *19*

Date of issue 10.3.41

Signed by Asst. S. K.V.

In continuation of this office letter No 2121/Misc 1-40.32 dated 13.2.1941 regarding the alleged unauthorised enjoyment of lands belonging to the temple of Sri Kalikal Anjaneyaswamy at Hare Road, Bangalore City by ~~a Company in one of the local Hospitals~~ one Venkatasteamy I am directed to forward herewith the enclosures received with the Correspondence.

I have ch

for

List of enclosures.....

Copied by .....

Examined by .....